

1 MR. SHUBERT: Let the record reflect, Your Honor,
2 I'm providing counsel for Mr. Willson with revisions to the
3 transcript of the depositions that were taken in June 1993.

4 MR. GAMMON: Well, I'll try to go on, Your Honor,
5 and if I trench on some of this -- counsel can tell me that
6 there's a correction on it. I don't want to take your time --

7 JUDGE LUTON: No, I, I, I wouldn't -- I would not
8 sub-- sustain an objection like that. There's a correction on
9 it, I think you're entitled to ask your questions of the
10 witness. Especially in light of the fact that you've just now
11 gotten the list of these corrections.

12 MR. GAMMON: Okay. Thanks, Judge.

13 BY MR. GAMMON:

14 Q Did Mr. Shubert represent your application for Bend,
15 Oregon -- the 1983 application, ma'am?

16 A No, he didn't.

17 Q Okay. Who was that?

18 A His name was Dan McCarthy.

19 Q And did he work with Mr. Shubert or was he in the
20 same office or firm?

21 A Not at that -- they had -- they were -- they had
22 been partners.

23 Q Okay. Well, were they partners at that time? At
24 the time Mr. McCarthy represented you?

25 A I don't know. I didn't know Mr. Shubert then.

- 1 Q Okay. You said in your application that Mr. Shubert
2 was the only communications lawyer that -- excuse me, in your
3 deposition you testified that Mr. Shubert was the only
4 communications lawyer you knew at the time of filing for your
5 Calistoga application. Do you recall that?
- 6 A I did say that.
- 7 Q That was just a mistake.
- 8 A That was a mistake.
- 9 Q And I'm sure a good faith mistake.
- 10 A Thank you.
- 11 Q I just wanted to clear that up. Sure. And what did
12 you do after you first learned from Mr. Shubert's newsletter
13 that there was an opportunity to -- that there was an
14 allocation in Calistoga?
- 15 A Well, the Calistoga area, the Napa Valley, was an
16 area I had, I had already planned to, to move --
- 17 Q I know, but what did you do -- that's the only
18 thing.
- 19 A Okay. Well, the -- that was the reason that I was
20 interested in it. I wouldn't have been interested in it if I
21 hadn't planned on moving to the area.
- 22 Q I know. What did you do? That's my question. What
23 did you do after you got this information?
- 24 A Then I talked to my attorney.
- 25 Q Okay. And subsequently you, you engaged the

1 services of a consulting engineer?

2 A Yes.

3 Q And who was that?

4 A His name is Elliott Klein.

5 Q And did Mr. Klein ever do work for your husband's

6 stations?

7 A I -- not recently.

8 Q Did he ever do work for your husband's stations?

9 A I think he did.

10 Q Yes. Did Mr. Shubert ever do legal work for your

11 husband's stations?

12 A Yes.

13 Q All right. At the time that you -- well, you

14 consulted counsel and you obtained engineering counsel and I

15 presume you instructed them to assist you in preparing an

16 application. Is -- would that be correct?

17 A That's correct.

18 Q All right. Did you discuss this with your husband

19 at all during this time period?

20 MR. SHUBERT: Could we have a clarification of what

21 this means?

22 MR. GAMMON: Surely.

23 BY MR. GAMMON:

24 Q During this period of time we're talking about.

25 When you instructed your counsel and your engineering counsel

1 to help you prepare an application for Calistoga, California,
2 which subsequently was filed in November of 1991.

3 A My husband was aware that I called Mr. Shubert and I
4 called Mr. Klein. But he wasn't advising me.

5 Q No, I didn't, I didn't ask you that. How did he
6 become aware?

7 A I'm sorry. I meant -- when you have a conversation
8 with somebody, it's either just a casual conversation or it's
9 a conversation where information is exchanged. I only meant
10 that I had mentioned that I called Mr. Klein and Mr. Shubert.

11 Q And my question was, how did your husband become
12 aware and I guess your answer is because you told him?

13 A That's right. We live in the same house.

14 Q All right. I, I'm not trying to trap you. If you
15 just try to listen to the question and then just answer that,
16 I'll move onto the next question and we'll move along better.

17 A Okay.

18 Q And we'll have a cleaner record if you don't mind.

19 A Okay. Thank you.

20 Q Okay. Well, how did you inform your husband that
21 you were about to go into this venture? Did you -- did --
22 strike that. Did you mention it to your -- that -- your
23 desire to go into this venture before you contacted Mr.
24 Shubert and Mr. Klein?

25 A I'm sorry. I don't have a video tape of it in my

1 mind.

2 Q Does that mean you don't know?

3 A I'm sorry. I don't remember.

4 Q So that you might have engaged the services of

5 engineering and legal counsel before you even made your

6 husband aware that you were going to?

7 A That's right. I may have called Mr. Shubert before

8 I even talked to my husband.

9 Q And Mr. Klein? Both?

10 A I probably, probably talked to, talked to my husband

11 about the fact that it was in Calistoga before I called Mr.

12 Klein.

13 Q Probably or you did?

14 A I don't remember.

15 Q Did Mr. -- did your husband recommend or affirm

16 your, your use in any way of Mr. Shubert and Mr. Klein?

17 A I think he did.

18 Q And by what, by what means did he do that?

19 A I think he thought it was a great idea.

20 Q And how do you know he thought it was a great idea?

21 A He was excited about moving to the Napa Valley as

22 well as I was.

23 Q How do you know he was excited about moving to the

24 Napa Valley?

25 A Well, because we planned to live together now and in

1 the future and I think he wanted to live in the same place
2 that I lived and he was very happy that I was pursuing
3 something like the Calistoga application.

4 Q So you talked about your desire to have this
5 application and, and you talked about the fact that the two of
6 you would move to Calistoga?

7 A Yes, we did. I mean, my husband was very interested
8 in the wine business and it was something that he had been
9 pursuing for quite a while.

10 MR. GAMMON: I move to strike that, Your Honor.
11 It's a volunteered statement.

12 MR. SHUBERT: It's in response to a question he
13 asked, Your Honor.

14 MR. GAMMON: No, it's not, Your Honor. We've been
15 doing this today and I'm trying to narrow it down just to my
16 question and responsive answer, but we're getting volunteered
17 statements. I'd like to have it stopped now. It was not
18 responsive.

19 JUDGE LUTON: Motion is granted.

20 BY MR. GAMMON:

21 Q Now, did there come a time -- I'm talking about the
22 initial application for Calistoga now -- did there come a time
23 when you first saw the FCC Form 301 application form that it
24 was later used -- that was identical to the one that was later
25 filled out and used for Calistoga by you?

1 A Yes.

2 Q Okay. How did you obtain that form?

3 A My attorney sent it to me.

4 Q Was it filled out when it was sent to you?

5 A No, it was not.

6 Q Did you fill it out?

7 A I filled it out.

8 Q All right. In longhand?

9 A In -- yes. I filled it in. I didn't type it.

10 Q And then what did you do with your longhand draft?

11 A Then I sent that to Mr. Shubert.

12 Q When was the next time you saw the application, or

13 what became of the application?

14 A After he sent it back to me.

15 Q All right. And was it all filled in and typed then?

16 A Yes.

17 Q Was the date for your signature typed in at that

18 time?

19 A Yes.

20 Q And do you recall when you first saw the typed

21 application then, which had come back to you from Mr. Shubert?

22 A On the day that I signed it.

23 Q Okay. Let's see if we can't nail down that date

24 then. It was filed with the Commission November 14, 1991, I

25 represent to you, and I'm looking for your signature now.

1 MR. SHUBERT: Can we provide her with a copy of the
2 signature page, counsel?

3 MR. GAMMON: That's fine if you'd like. You signed
4 it on November 12, 1991. Does that ring a bell?

5 WITNESS: Yes, I did.

6 MR. GAMMON: When the application -- did you make
7 any changes at that time before you signed it?

8 WITNESS: No, I didn't.

9 MR. SHUBERT: Let the record reflect I'm putting a
10 copy of the signature page on the application before the
11 witness, Your Honor. This is the original November
12 application.

13 MR. GAMMON: Fine.

14 BY MR. GAMMON:

15 Q In the flurry of papers I missed your answer. Your
16 answer was you made no changes?

17 A I didn't make any changes.

18 Q Okay. Thank you. But you must have reviewed it
19 very carefully, did you not? Before you signed it?

20 A Yes. To see that it corresponded with my
21 handwritten copy.

22 Q Because as we said at the outset you were attempting
23 to be very, very accurate with the FCC.

24 MR. SHUBERT: Asked and answered, Your Honor.
25 Objection.

1 JUDGE LUTON: Overruled.

2 BY MR. GAMMON:

3 Q Right?

4 A Yes.

5 Q Okay. Would you look at transcript 103 of your
6 deposition if counsel would be kind enough to put that in
7 front of you? This is your June -- when I say your
8 deposition, I'm referring to your June deposition of this year
9 in this proceeding.

10 A Okay. It's the only deposition I've ever had in my
11 life.

12 Q Well, we'll --

13 A So, yeah, the deposition will be the deposition to
14 me.

15 Q Okay. You don't have to show me. I trust you.

16 MR. SHUBERT: Let the record reflect, Your Honor,
17 that I'm placing before the witness a copy of page -- a copy
18 of the witness' deposition of June -- what was the date, 4,
19 1993, and that it is open to page 103.

20 BY MR. GAMMON:

21 Q You can just push that aside for the moment if you
22 will, ma'am. I'll go on to something else.

23 A You changed your mind?

24 Q I changed my mind -- some way to save some time.

25 When you filed the application, or when your application was

1 filed, were you aware that the FCC awards construction permits
2 in, in comparative hearing cases on the basis of so-called
3 comparative criteria?

4 A Yes.

5 Q And were you generally aware of what those criteria
6 were?

7 A Generally.

8 Q Let's see. In the, in the 1983 Eagle application
9 and the 1991 -- no, 1991 was Eagle --

10 A Right.

11 Q -- 1983 was Sage. You had competing applications
12 within each of those instances, did you not?

13 A Yes, I did.

14 Q And did they -- how far did each of those get before
15 they were settled? Was, was there an evidentiary hearing like
16 this?

17 A No.

18 Q Were pleadings filed for enlargement of issues, that
19 kind of thing.

20 A I don't -- the Bend application, frankly, was so
21 long ago I don't remember very much about it.

22 Q Bend was Sage. Right?

23 A That was Sage. Excuse me.

24 Q Okay. How about the more recent one for instance?

25 A Yes. According to -- you know, I decided not to

1 pursue that one because I wasn't the best applicant.

2 Q Oh, no, no, I'm not asking that.

3 A Okay.

4 Q It just went -- it went to the place where petitions
5 were filed against applicants.

6 A That's right.

7 Q That's fine. Just -- really just narrow yourself to
8 my question --

9 A Okay.

10 Q -- answer fully, of course, but just the question
11 and I'll, I'll move on to another one. When you were aware
12 then that, that in settlement -- both of those resulted in
13 settlements, didn't they?

14 A Yes, they did.

15 Q And did you receive compensation in those
16 settlements?

17 A Yes, I did.

18 Q Okay. And you were aware that in the whole matter
19 of settling out applications that the various strengths of the
20 applicants were the bargaining chips as it were?

21 A Yes.

22 Q That's the process?

23 A Yes.

24 Q So if my application is stronger than yours, I say
25 you shouldn't get so much. If your application is stronger

1 | than mine, you make the argument, right?

2 | A That's right.

3 | Q Yeah. That's the way it goes. Now, as I look at
4 | your exhibit -- either of your exhibits, and you, you check me
5 | on this, but it looks to me like you are not claiming any past
6 | residence in your proposed Calistoga service area. Is that
7 | correct?

8 | A I'm not com-- I'm not -- no, not prior to April of
9 | 1993.

10 | Q Well, I think we went over that this morning and it
11 | was established that that's not going to count for past
12 | broadcast -- past residence. So we'll leave the judge's
13 | record -- ruling on the record if we have to. So my question
14 | -- can you answer without qualification? Are you asking for
15 | past credit -- are you asking for credit in this proceeding
16 | for past residence within the proposed service area of your
17 | Calistoga station?

18 | A Are you asking me a question that's already been
19 | decided upon?

20 | Q Ma'am, I don't know how to answer that.

21 | A I mean it's --

22 | Q I'm asking what you're proposing here.

23 | A -- the exhibit states that I was, I was born and
24 | raised in Sonoma County.

25 | Q I know what the exhibit states.

1 A Okay. If, if there is any --

2 Q I'm not -- strike the question. Let me ask it a
3 different way. I can see you're having trouble with it. Let
4 me go to your March 2, 1992, amendment.

5 MR. GAMMON: Counsel, could you put Amended Exhibit
6 3 of that amendment in front of the witness?

7 MR. SHUBERT: The witness has before her Amended
8 Exhibit No. 3, with a date of February 1992, FCC Form 301
9 from --

10 MR. GAMMON: Thank you.

11 BY MR. GAMMON:

12 Q And at the time you -- this amendment was prepared
13 and before you signed it, you read it carefully, did you not?

14 A I must not have read it very carefully because --

15 Q No, ma'am, just answer the question. We'll get to
16 it.

17 A That's what I said. I must not have read it very
18 carefully.

19 Q All right. Now, what was it about this amendment
20 that caused you not to read it as carefully as you read the
21 initial application?

22 A I can't answer that at this point.

23 Q Okay. Now, you stated -- look at the last
24 paragraph. You stated there, the last sentence, Moonbeam will
25 claim comparative enhancements for, small one, past local

1 residence within the service area. You see that?

2 A Um-hum. Yes.

3 Q Now, how did you determine that you were going to
4 claim past local residence enhancement?

5 A I claimed local residence enhancements because I'd
6 spent my -- I'd spent most of my life living in the, in the
7 Sonoma -- in Sonoma County. The town that I grew up in,
8 Petaluma, is a small farm town. Cal -- Santa Rosa, which
9 is --

10 Q Now, ma'am, let me stop you now.

11 A I'm sorry.

12 Q Let me stop you now.

13 A You asked me the question.

14 Q The language is --

15 MR. SHUBERT: Your Honor.

16 MR. GAMMON: -- service area.

17 WITNESS: That's right. And I was explaining that.
18 The area, which is Santa Rosa, which is in the service area is
19 a place I --

20 MR. GAMMON: Did you ever live in Santa Rosa?

21 WITNESS: I do not live in Santa Rosa, but I shopped
22 in Santa Rosa, I went, I went to school in Santa Rosa. From
23 when I was in high school through college, I spent a lot of
24 time in Santa Rosa.

25 MR. GAMMON: Where'd you go to school?

1 WITNESS: Petaluma was a very small town. Santa
2 Rosa was a big town --
3 MR. GAMMON: Ma'am, ma'am --
4 WITNESS: -- in a small valley.
5 MR. GAMMON: -- you're, you're racing to get ahead
6 of me to get your words in. Please.
7 MR. SHUBERT: Your Honor --
8 MR. GAMMON: Please.
9 MR. SHUBERT: -- if we may, if counsel asks a
10 question --
11 MR. GAMMON: I'll want to refocus you.
12 MR. SHUBERT: -- if he doesn't like the response he
13 should frame his questions more finite.
14 MR. GAMMON: I certainly should. Let me try again.
15 BY MR. GAMMON:
16 Q You say you lived in Santa Rosa. When did you --
17 A No, I did not say I lived in Santa Rosa.
18 Q Yes, you did, ma'am.
19 A I said I lived in Petaluma.
20 Q You said you lived in Santa Rosa just a moment ago.
21 May it be read back?
22 A No, I said I went to school in Santa Rosa.
23 Q And -- okay.
24 A I lived in Petaluma.
25 Q Petaluma's outside the service area, isn't it?

1 A Petaluma is about ten miles --

2 Q Ma'am, just answer yes or no. Please. Please.

3 MR. SHUBERT: Your Honor, can we instruct counsel
4 not to argue with the witness, please?

5 MR. GAMMON: Your Honor, you see what's happening?
6 It's a yes/no question.

7 BY MR. GAMMON:

8 Q Is Petaluma outside the proposed service area or is
9 it not?

10 A According to your map, it is outside the area.

11 Q According to your map, it's outside, isn't it?

12 A I'm assuming we're using the same map. I'm sorry.

13 Q Well, it's outside. We don't have to argue about
14 that, do we?

15 A You're arguing. I'm not.

16 Q Okay. Now, I'm talking about the inside, you see?
17 How did you come to tell the FCC and Mr. Willson and anybody
18 else that wanted to view your application and its strengths or
19 weaknesses, how did you come to say that you had local
20 residence in the past within, within the service area?

21 A I would consider Petaluma to be within the service
22 area. I'm sorry. I misunderstood the question.

23 Q Okay. That's fine. And -- but you know it's
24 outside the service area, don't you?

25 A I do now.

1 Q Oh. Then you thought it was within? Is that what
2 you're telling us? In March 2 of '92?

3 A I wasn't sure. Could I give you an example?

4 Q Well, if you just say you weren't sure, that's fine.
5 I'll go on.

6 A No, I'll give you -- can I give you --

7 Q Your counsel can pick up with examples.

8 A I wasn't sure.

9 Q Okay. How could you say this to the FCC, Mr.
10 Willson, and everyone else when you weren't sure? You were
11 trying to be as accurate as possible.

12 A That's right. I said I was.

13 Q Well -- but you weren't even sure. How could you
14 make a positive statement like this? What was your, what was
15 your mental reasoning?

16 A I'm sorry. I can't answer that question.

17 Q Okay. Paragraph 2 -- well, look here. Paragraph 2,
18 the, the third sentence, it said -- says, she lived in Santa
19 Rosa, Sonoma County, California, while attending college at
20 Sonoma State University, Santa Rosa, California. Do you see
21 that language?

22 A As I told you, that was a mistake and it was later
23 amended.

24 Q Where -- well, first, where was it amended?

25 A It was amended in the application.

1 Q Where?

2 A In the next integration statement.

3 Q Did you ever say to the Commission, I made a

4 mistake. I have to change some language?

5 MR. SHUBERT: Objection, Your Honor.

6 BY MR. GAMMON:

7 Q In any amendment.

8 A I thought that's what an amendment was.

9 Q Did you ever say to the Commission, I've made a

10 misstatement, innocently or not, that needs to be corrected in

11 any amendment or any pleading filed with this commission ever

12 relating to this statement?

13 A I'm sorry. In legal language I don't think I've

14 ever seen it in anybody's integration that they say I'm sorry,

15 I made a mistake. They simply change the facts to reflect the

16 truth. That's what I did.

17 Q You just used different words in the integration

18 statement later, right?

19 A No.

20 Q Okay.

21 A I used different words, I used different facts.

22 Q Oh, I see.

23 A I used -- I told the truth.

24 Q But you never told the Commission that prior

25 statements were inaccurate, did you? In either of these

1 instances by the way? Did you?

2 A I thought that's what the purpose of an amendment
3 was. Isn't that what the word amend means?

4 Q Did you ever file an amendment correcting and saying
5 I'm correcting something that was in error?

6 A The fact that it's an amendment is a correction, is
7 it not?

8 MR. GAMMON: I'll go with something else, Your
9 Honor.

10 JUDGE LUTON: Please.

11 BY MR. GAMMON:

12 Q I'm just not that good at answering questions.
13 Okay. So we have it clear. You never did live in Santa Rosa,
14 right?

15 A No, I didn't live in Santa Rosa.

16 Q Okay. Is Sonoma State University located in Santa
17 Rosa as it's indicated here.

18 A It's located in Rohnert Park.

19 Q Rohnert? R-O --

20 A R --

21 Q R-O-H-N-E-R-T?

22 A R-O-H -- yes.

23 Q Okay. Is Rohnert, Rohnert Park within the 1 mV
24 proposal with your application?

25 A No, it's not.

1 Q And when did you go to Sonoma State?
2 A I went to Sonoma State in 1964.
3 Q Just that one year?
4 A 1964 to 1966. And then I also went during some
5 summer schools sessions.
6 Q During that period of time?
7 A Through probably 1968-1969.
8 Q And all that time you thought it was in Santa Rosa?
9 A Actually when I first went to Sonoma State it was a
10 brand new incorporated community. The boundaries of Rohnert
11 Park and Santa Rosa are one and the same. They're, they're
12 contingent. If you were to -- if you were driving between
13 Rohnert Park and Santa Rosa, you wouldn't know when you were
14 going -- when you left Rohnert Park and entered Santa Rosa.
15 Q How far apart are the two communities, ma'am?
16 A As I said, if you're talking about their boundaries,
17 they are -- they have the same boundary. They share a fence.
18 Q You know that for a fact?
19 A I know that for a fact. One of the reasons that
20 Rohnert Park incorporated in 1963 is so that it would not be
21 annexed by Santa Rosa.
22 Q And where are the, the buildings where you attended
23 Sonoma State? Are they on this fence line?
24 A They don't even -- I don't think they even exist
25 anymore. When I attended Sonoma State College, it was a brand

1 new state college.

2 Q Where were they then, yeah?

3 A They were right off of Highway 101, which goes
4 between Petaluma to Santa Rosa.

5 Q Well, the question's, were they on the boundary line
6 between the two communities or were they in Rohnert Park?
7 Built-up Rohnert Park.

8 A Rohnert Park wasn't built up when I attended Sonoma
9 State College. It was a brand new community. All it had was
10 a -- basically just a bedroom community. It had houses -- I
11 don't even remember if it had a grocery store or any other
12 facilities.

13 Q All right. And you, in good faith, thought that
14 this university, this state -- Sonoma State University, was
15 actually in Santa Rosa?

16 A Some of the classes were held in Santa Rosa. As I
17 said, it was a brand new state college.

18 Q Did you attend classes in Santa Rosa?

19 A Yes, I did.

20 Q What caused -- and you were aware that you were
21 going to Santa Rosa for these classes then?

22 A I was aware because the classes were in northern
23 Santa Rosa, yes. I had to go -- actually almost go through
24 Santa Rosa and they were just off -- actually off of what's
25 now called Calistoga Road.

1 Q So you knew when you weren't going to classes there
2 you were in Rohnert Park going to classes.?

3 A Well, Rohnert Park was kind of out in the middle of
4 nowhere.

5 Q But it was Rohnert Part; not Santa Rosa.

6 A It was called Rohnert Park.

7 Q And it was outside the 1 mV those buildings, right?

8 A It's the same place, yes.

9 Q Where did you live during this period of time when
10 you --

11 A I lived in Petaluma.

12 Q That's even farther outside the 1 mV, isn't it?

13 A A few more miles, yes.

14 Q Yes. Okay. The --

15 (Pause.)

16 MR. GAMMON: Your Honor, a couple more questions out
17 and moving on.

18 JUDGE LUTON: All right.

19 MR. GAMMON: I appreciate your indulgence.

20 BY MR. GAMMON:

21 Q I'm going to ask a couple of questions here in
22 pretty much capsule form to see if I can just get you to say
23 yes or no and if that's not an adequate response, then you'll
24 have to tell me. If, if, if you prefer, then I can just go
25 through the deposition transcript question and answer, but I'm

1 | trying to shorten it. But you have to be accurate, so you --
2 | A I'll try.
3 | Q Sure. And I'll try to be accurate too.
4 | A Okay.
5 | Q Isn't it a fact that when Mr. Fitch examined you
6 | with respect to your engineering amendment --
7 | A Um-hum.
8 | Q -- in deposition, you responded that you had not
9 | made a site change -- and I'm not saying it didn't get
10 | corrected later, but didn't -- you had no recollection that
11 | your engineering effected a site change at that time. Isn't
12 | that correct?
13 | A I was --
14 | MR. SHUBERT: I object to the characterization of
15 | the question, Your Honor.
16 | MR. GAMMON: -- we can do it the other way if, if
17 | you'd like.
18 | JUDGE LUTON: What's objectionable about the
19 | characterization?
20 | MR. SHUBERT: The way he phrased the question was in
21 | terms of not whether or not she was -- how she responded, but
22 | what her mental process was. And he's asking her, you know,
23 | did you say no and was that your mental process?
24 | JUDGE LUTON: What? I, I, I'm lost. Why don't you
25 | ask the question again --

1 MR. GAMMON: Sure.

2 JUDGE LUTON: -- Mr. Gammon.

3 MR. GAMMON: When you were asked by Mr. Fitch and
4 examined on, on the question of whether -- of what was
5 involved in your engineering amendment, didn't you respond
6 that you didn't have -- you didn't know what the purpose of
7 the engineering amendment was and that there was no site
8 change.

9 WITNESS: I didn't -- I don't think I responded that
10 I didn't know what the purpose of a -- an amendment was.

11 MR. GAMMON: That's fine, because all I asked was
12 what you recollect and you've given me your recollection.
13 Let's go to transcript page 64 to 66, counsel, if you'd be
14 kind enough to put that in front of the witness.

15 MR. SHUBERT: Let the record reflect that before the
16 witness is a copy of the transcript of the deposition,
17 uncorrected copy of the transcript of the deposition, from
18 June 1993 and it is open to page 64.

19 BY MR. GAMMON:

20 Q All right. Go to page 63 and we'll start there.

21 A Okay.

22 Q Thank you. At line 9, and I'll just shorthand this.
23 If you want it quoted for accuracy just tell me, or counsel
24 can tell me if I'm mis -- mischaracterizing.

25 A Um-hum.

1 Q The question was asked by Mr. Fitch, the amendment
2 you filed in March of '92 also amended certain other aspects
3 of your application. Do you recall off the top of your head
4 what else was amended? And your answer was specifically, no.
5 And then there was -- the amendment was put in front of you
6 and on 64 Mr. Fitch said, all right, having reviewed that
7 page, that page, do you recall now whether you amended any
8 part of the engineering of your application? And your answer
9 was, no, specifically no. Do you see that?

10 A Um-hum. Yes.

11 Q Okay. And the answer was, Mr. Shubert clarified,
12 and then you said, oh, no, I don't recall. Okay? And then
13 Mr. Fitch asked you to look at the amendment more carefully.
14 Then we go to page 65 and you say at line 3 of the change in
15 calculations, and you -- and then you say, I'll have to read
16 the whole thing, the complete files, the original files, to
17 tell you exactly what because there are things that have been
18 amended throughout the last couple of years and I'm not sure
19 exactly what specifically you're trying to test me on. Mr.
20 Fitch was just asking you for, he said, for a general
21 understanding of what was amended and you referred to Mr.
22 Elliott Klein and then going on to page 66, you stated you
23 were not an engineer and the question was, do you know if you
24 were proposing a different site in your amended engineering.
25 Do you see that question?